

# Exhibit 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

HEALTHIER CHOICES  
MANAGEMENT CORP.,

Plaintiff,

v.

PHILIP MORRIS USA, INC. and PHILIP  
MORRIS PRODUCTS S.A.,

Defendants.

Case No. 1:20-cv-04816-TCB

**DECLARATION OF RICHARD G. FRENKEL IN SUPPORT OF  
DEFENDANTS' MOTION FOR ATTORNEYS' FEES**

I, RICHARD G. FRENKEL, declare as follows:

1. I am a partner in the law firm of Latham & Watkins LLP, counsel for Defendant Philip Morris Products, S.A. (“PMPSA”) in the above-captioned case. I am licensed to practice law in the state of California, and am a member in good standing of the State Bar of California

2. I submit this declaration in support of Defendant PMPSA’s motion for attorneys’ fees.

3. I have personal knowledge of the facts set forth in this declaration, and could testify competently to these facts if called as a witness.

4. Since Latham & Watkins LLP began representing PMPSA against the infringement claim brought by Plaintiff Healthier Choices Management Corp. (“HCM”) in November 2020, PMPSA has spent attorneys’ fees and filing costs to defend itself, including performing tasks in response to HCM’s infringement complaint, and other legal tasks to provide a complete defense to HCM’s allegations, including, for example, preparing and filing an *inter partes* review petition challenging the validity of HCM’s ’170 patent before the United States Patent Trial and Appeal Board.

5. In its motion, PMPSA is seeking only fees relating to tasks performed in response to HCM’s infringement complaint, amounting to \$245,732.00 in fees

due to work performed by Latham & Watkins. This amount represents time spent by Latham & Watkins attorneys, paraprofessionals, and attorney support staff on district court litigation tasks performed in response to HCM's infringement complaint between November 30, 2020 and December 3, 2021. This number is approximate, as Latham & Watkins's billing system has not yet finalized fees due for work performed in December 2021.

\* \* \*

I declare upon penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on December 15, 2021 in Palo Alto, California.

/s/ Richard G. Frenkel

Richard G. Frenkel